

1                                    **ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS**

2    In the Matter of the Mortgage Banker License of:    No. 06F-BD043-BNK

3    **AMERICAN MORTGAGE EXPRESS**  
4    **FINANCIAL CORPORATION AND**  
5    **JUDITH A. DUNHAM, C.E.O.**  
6    2141 East Broadway Road, Suite 103  
7    Tempe, AZ 85282

**CONSENT ORDER**

6                                    Petitioners.

8                    On April 12, 2006, the Arizona Department of Financial Institutions ("Department") issued a  
9    Notice of Hearing alleging that Petitioners had violated Arizona law. Wishing to resolve this matter  
10   in lieu of an administrative hearing, and without admitting liability Petitioners do not contest the  
11   following Findings of Fact and Conclusions of Law, and consent to the entry of the following Order.

12                                    **FINDINGS OF FACT**

13                    1.     Petitioner American Mortgage Express Financial Corporation ("AMEFC") is a  
14   California business corporation authorized to transact business in Arizona as a mortgage banker,  
15   license number BK 0903302, within the meaning of A.R.S. §§ 6-941 *et seq.* The nature of  
16   AMEFC's business is that of making, negotiating, or offering to make or negotiate a mortgage  
17   banking loan or a mortgage loan secured by Arizona real property within the meaning of A.R.S.  
18   § 6-941(5).

19                    2.     Petitioner Judith A. Dunham ("Ms. Dunham") is the C.E.O. of AMEFC and is  
20   authorized to transact business in Arizona as a mortgage banker within the meaning of A.R.S.  
21   § 6-941(5), as outlined within A.R.S. § 6-943(F).

22                    3.     AMEFC and Ms. Dunham are not exempt from licensure as a mortgage banker within  
23   the meaning of A.R.S. §§ 6-942 and 6-941(5).

24                    4.     An August 15, 2005 examination of AMEFC, conducted by the Department, revealed  
25   that AMEFC and Ms. Dunham:

26    ...

- 1 a. failed to conduct the minimum required elements of reasonable employee  
2 investigations before hiring at least nine (9) employees;
- 3 i. failed to obtain credit reports before hiring nine (9) employees;
- 4 ii. failed to obtain a completed employment eligibility verification form  
5 "I-9" when hiring nine (9) employees; and
- 6 iii. failed to inquire regarding the applicant's qualifications and  
7 competence for the position when hiring nine (9) employees;
- 8 1. failed to correct these violations from their prior April 26, 2001  
9 examination;
- 10 b. failed to maintain a list of all executed loan applications or executed fee  
11 agreements;
- 12 i. the loan listing provided by Petitioner did not contain a provision for  
13 final disposition;
- 14 1. failed to correct this violation from their prior April 26, 2001  
15 examination;
- 16 c. failed to comply with the disclosure requirements of Title I of the Consumer  
17 Protection Act (15 U.S.C. §§ 1601-1666j); the Real Estate Settlement  
18 Procedures Act (12 U.S.C. §§ 2601-2617); and the regulations promulgated  
19 under these acts;
- 20 i. failed to issue a preliminary good faith estimate (GFE) disclosure to  
21 two (2) borrowers;
- 22 ii. failed to issue a timely servicing transfer disclosure to three (3)  
23 borrowers; and
- 24 iii. failed to issue a preliminary truth in lending (TIL) disclosure to three  
25 (3) borrowers;
- 26 ...



- d. A.R.S. § 6-946(C) by using an unlawful appraisal disclosure placing a 90-day limit upon Arizona borrowers to request a copy of an appraisal report for which the borrowers had already paid; and
- e. A.R.S. § 6-944(D) by failing to obtain a branch office license from the superintendent before processing mortgage loans at an unlicensed location.

3. The violations of applicable laws set forth above constitute grounds for the issuance of an order directing Petitioners to cease and desist from the violative conduct and to take the appropriate affirmative actions, within a reasonable period of time prescribed by the Superintendent, to correct the conditions resulting from the unlawful acts, practices, and transactions, pursuant to A.R.S. § 6-137.

4. The violations of applicable laws set forth above constitute grounds for the imposition of a civil penalty of not more than five thousand dollars (\$5,000.00) for each violation for each day, pursuant to A.R.S. § 6-132.

#### **ORDER**

1. AMEFC and Ms. Dunham shall immediately stop the violations set forth in the Findings of Fact and Conclusions of Law. AMEFC and Ms. Dunham:

- a. shall conduct the minimum elements of reasonable employee investigations before hiring employees;
- b. shall maintain a complete list of all executed loan applications or executed fee agreements and will provide an updated list with provision for final disposition;
- c. shall comply with the disclosure requirements of Title I of the Consumer Protection Act (15 U.S.C. §§ 1601-1666j); the Real Estate Settlement Procedures Act (12 U.S.C. §§ 2601-2617); and the regulations promulgated under these acts;

...

- 1 d. shall not use an unlawful appraisal disclosure placing a 90-day limit upon  
2 Arizona borrowers to request a copy of an appraisal report for which the  
3 borrowers had already paid; and  
4 e. shall obtain a branch office license from the Superintendent before processing  
5 mortgage loans at an unlicensed location.

6 2. American Mortgage Express Financial Corporation and Ms. Dunham shall  
7 immediately pay to the Department a civil money penalty in the amount of ten thousand dollars  
8 (\$10,000.00). American Mortgage Express Financial Corporation and Ms. Dunham are jointly and  
9 severally liable for payment of the civil money penalty.

10 3. The provisions of this Order shall be binding upon Petitioners, their employees,  
11 agents, and other persons participating in the conduct of the affairs of American Mortgage Express  
12 Financial Corporation.

13 4. This Order shall become effective upon service, and shall remain effective and  
14 enforceable until such time as, and except to the extent that, it shall be stayed, modified, terminated,  
15 or set aside.

16 SO ORDERED this 14th day of May, 2006.

17  
18 Felecia Rotellini  
19 Felecia A. Rotellini  
20 Superintendent of Financial Institutions

21 **CONSENT TO ENTRY OF ORDER**

22 1. Petitioners acknowledge that they have been served with a copy of the foregoing  
23 Findings of Fact, Conclusions of Law, and Order in the above-referenced matter, have read the  
24 same, are aware of their right to an administrative hearing in this matter, and have waived the same.

25 2. Petitioners admit the jurisdiction of the Superintendent and consent to the entry of the  
26 foregoing Findings of Fact, Conclusions of Law, and Order.

3. Petitioners agree to cease from engaging in the violative conduct set forth in the Findings of Fact above.

4. Petitioners acknowledge that the acceptance of this Agreement by the Superintendent is solely to settle this matter and does not preclude this Department, any other agency or officer of this state or subdivision thereof from instituting other proceedings as may be appropriate now or in the future.

5. Judith A. Dunham on behalf of American Mortgage Express Financial Corporation, and herself, represents that she is the C.E.O., and that, as such, has been authorized by American Mortgage Express Financial Corporation to consent to the entry of this Order on its behalf.

6. Petitioners waive all rights to seek judicial review or otherwise to challenge or contest the validity of the Notice of Hearing.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

By: Judith A. Dunham  
Judith A. Dunham, C.E.O.  
American Mortgage Express Financial Corporation

ORIGINAL of the foregoing filed this 9<sup>th</sup>  
day of May, 2006, in the office of:

Felecia A. Rotellini  
Superintendent of Financial Institutions  
Arizona Department of Financial Institutions  
ATTN: June Beckwith  
2910 N. 44th Street, Suite 310  
Phoenix, AZ 85018

COPY mailed same date to:

Diane Mihalsky, Administrative Law Judge  
Office of the Administrative Hearings  
1400 West Washington, Suite 101  
Phoenix, AZ 85007

1 Craig A. Raby  
2 Assistant Attorney General  
3 Office of the Attorney General  
4 1275 West Washington  
5 Phoenix, AZ 85007

6 Robert Charlton, Assistant Superintendent  
7 Anthony Arroyo, Senior Examiner  
8 Arizona Department of Financial Institutions  
9 2910 N. 44th Street, Suite 310  
10 Phoenix, AZ 85018

11 AND COPY MAILED SAME DATE by  
12 Certified Mail, Return Receipt Requested, to:

13 American Mortgage Express Financial Corporation  
14 Judith A. Dunham, C.E.O.  
15 2141 East Broadway Road, Suite 103  
16 Tempe, AZ 85282  
17 Petitioners

18 Judith A. Dunham, C.E.O.  
19 American Mortgage Express Financial Corporation  
20 10251 Vista Sorrento Parkway, Suite 300  
21 San Diego, CA 92121  
22 Petitioners

23 Chris Dye, Esq.  
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957027; CPA06-128